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10/538,262	02/06/2006	Hiroyuki Hidaka	81887.0126	3227
26/021 7590 10/27/2010 Hogan Lovells US LLP 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
EXAMINER ZEWARI, SAYED T				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
10/27/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/538,262

Applicant(s)

HIDAKA, HIROYUKI

Examiner

SAYED T. ZEWARDI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed on 9/14/2010 have been fully considered but they are not persuasive.

2. Applicant argues that

The cited art does not render obvious claim 1 because the cite art does not teach or suggest each and every limitation of claim 1 as amended. For example, the cited art does not teach or suggest, at least, the limitation "the wireless base station comprises: a notify section that notifies the wireless communication terminal of an initial uplink transmission resources "information" of claim 1.

This argument is not persuasive. The applied reference discloses this limitation. It is not exactly clear what the applicant mean by "notify section" but from the context of the claim and specification it is clear that the applicant's "notify section" reads on a transmitter. Uchida discloses such a transmitter (notify section):

FIG.1

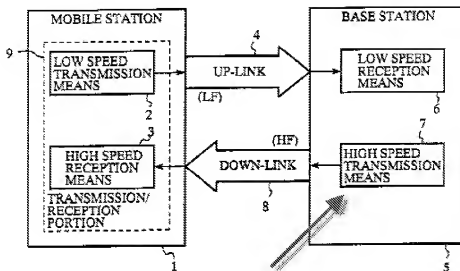


Figure 1

3. Applicant argues that

Uchida is directed a communication system in which the transmission rate between the mobile station 16 and the database 11 is changed by the mobile switching center 27 (MSC)(Abstract). However, the database does not correspond to a base station, as required by claim 1. Moreover, given that *Uchida* does teach or suggest the wireless base station, *Uchida* likewise fails to disclose limitations relating to the base station, including a notify section that notifies the wireless communication terminal of uplink transmission resource information in the present invention. Thus, *Uchida* does not teach or suggest the required "wireless base station" and limitations relating thereto.

This argument is not persuasive. The applied references disclose these limitations. For example, *Uchida* discloses transmitting uplink transmission resources; notify section

(transmitter), base station. Applicant is referred back to figure 1 (above) of Uchida where a base station is clearly disclosed.

4. Applicant argues that

Tsien is cited as disclosing an obtaining section. Applicant respectfully disagrees. Tsien fails to disclose the required "obtain section" and the "transmission section" required by claim 1. The communication system of Tsien does not obtain an uplink transmission resources information from the wireless base station. Further, the system does not transmit data corresponding to the obtained uplink transmission resources.

This argument is not persuasive. Tsien was cited for the limitation of data transmission rate control and not for an obtaining section. Uchida was cited for the limitations of "obtain section" and "transmission section". Applicant has not clarified as to the meaning of "obtain section" and "transmission section" but from the context of claim and specification the "obtain section" is a receiver and "transmission section" is read as transmitter.

5. Therefore, the applied references are still valid and disclose all the limitations of the claims of the applicant.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. (US 6,745,049) in view of Tsien et al. (US 2003/0166394).

With respect to claim 1, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless base station comprises:

a notify section that notifies the wireless communication terminal of an initial uplink transmission resources information (**See Uchida's col.2 lines 14-67**). Uchida disclose everything claimed as applied above to claim 1, except for explicitly reciting an obtain section that obtains the initial uplink transmission resources information from the wireless base station. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 6, Uchida discloses a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), comprising: obtains an uplink transmission resources information, notified from a wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**). Uchida disclose everything claimed as applied above to claim 6, except for explicitly reciting a

transmission section that transmits data obtained corresponding to the obtained uplink transmission resources. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 7, Uchida discloses a wireless communication terminal, wherein a wireless communication line set between a wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), comprising: a terminal transmission rate notify section that notifies the wireless base station of a transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station wherein the terminal transmission rate notify section notifies the wireless base station of the transmission rate when the wireless base station and the wireless communication terminal exchange their mutual station information (**See Uchida's col.2 lines 14-67**); and a wireless base station transmission rate broadcast section that notifies the wireless communication terminal of a transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's col.2 lines 14-67**). Uchida discloses everything claimed as applied above to claim 7, except for explicitly reciting a transmission rate determination section that determines a transmission rate on the wireless communication line from the wireless communication

terminal to the wireless base station based on a determination result as to whether or not the wireless base station enables to support the transmission rate notified from the wireless communication terminal. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 11, Uchida discloses a wireless base station, wherein a wireless communication line is set between the wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), for performing communications, comprising: a notify section that notifies a wireless communication terminal of an transmission resources and wherein the wireless communication terminal can obtain the uplink transmission resources information (**See Uchida's col.2 lines 14-67**).

With respect to claim 12, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless base station comprises: notifying the wireless communication terminal of an uplink transmission resources information (**See Uchida's col.2 lines 14-67**), and the wireless communication terminal comprises: obtaining the uplink transmission resources information; and transmitting data corresponding to the obtained uplink

transmission resources. Uchida disclose everything claimed as applied above to claim 12, except for explicitly reciting an obtain section that obtains the uplink transmission resources information. In analogous art, Tsien discloses a communication system for data transmission rate control (**See Tsien's figure 2(42, 48), section [0012]-[0018]**). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 13, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), wherein a wireless communication line is set between the wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the transmission rate control method includes the steps in which: the wireless communication terminal notifies the wireless base station of an transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**); the wireless base station determines whether or not the transmission rate notified from the wireless communication terminal enables to be supported (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**); the wireless base station notifies the wireless communication terminal of

a determination result of the determination section (**See Uchida's col.2 lines 14-67**); and the wireless communication terminal determines the transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**).

With respect to claim 2, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), wherein a wireless communication line is set between the wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless communication terminal comprises: a terminal transmission rate notify section that notifies the wireless base station of a transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information (**See Uchida's col.2 lines 14-67**); and a transmission rate determination section that determines a transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**), and the wireless base station comprises: a determination section that determines whether or not the transmission rate notified from the wireless communication terminal enables to be supported (**See Uchida's col.2 lines 14-67**) ;

and a determination result notify section that notifies the wireless communication terminal of a determination result of the determination section **(See Uchida's col.2 lines 14-67)**. Uchida discloses everything claimed as applied above to claim 7, except for explicitly reciting an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on a determination result as to whether or not the wireless base station enables to support the initial transmission rate notified from the wireless communication terminal. In analogous art, Tsien discloses a communication system for data transmission rate control **(See Tsien's figure 2(42, 48), section [0012]-[0018])**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine it with that of Tsien for the purpose of setting transmission rate control in a wireless system, as taught by Tsien.

With respect to claim 3, Uchida discloses a wireless communication system wherein the wireless communication terminal notifies the wireless base station of the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when power of the wireless communication terminal is turned on, and determines the transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 4, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 5, Uchida discloses a wireless communication system wherein the wireless communication terminal comprises a request transmission rate transmission section **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)** that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5, figure 1)**.

With respect to claim 8, Uchida discloses a wireless communication system wherein when power of the wireless communication terminal is turned on, the wireless communication terminal notices the wireless base station of the transmission rate **(See Uchida's figure 7, col.9 lines 4-5, figure 1, col.4 lines 15-17)**.

With respect to claim 9, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 10, Uchida discloses a wireless communication terminal comprising: an inherent request transmission rate transmission section that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 14, Uchida discloses a transmission rate control method wherein the wireless communication terminal notifies the wireless base station of the transmission rate when power of the wireless communication terminal is turned on **(See Uchida's figure 1 and 2, col.9 lines 37-67)**.

With respect to claim 15, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 16, Uchida discloses a wireless communication system wherein the wireless communication terminal retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change, figure 1)**.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAYED T. ZEWARDI whose telephone number is (571)272-6851. The examiner can normally be reached on 8:30-4:30.
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/
Examiner, Art Unit 2617

/LESTER KINCAID/
Supervisory Patent Examiner, Art Unit 2617